

REMARKS

Claims 1 and 3-8 are pending. No new matter has been added by way of the present amendments. For instance, claim 1 has been amended to incorporate the allowable subject matter recited in claim 2. Claim 1 has also been amended to include the word "effective" which was inadvertently omitted in a previous amendment. Claim 2 has been accordingly cancelled. Lastly, the dependency of claim 3 has been amended due to the cancellation of claim 2. Thus, no new matter has been added.

Also, this amendment does not raise new issues since the Examiner has already searched and considered the subject matter of claim 2. Thus, the Examiner is not presented with the burden of additional search and/or consideration.

In the event that the present submission does not place the application into condition for allowance, entry thereof is respectfully requested as placing the application into better form for appeal.

In view of the following remarks, Applicants respectfully request that the Examiner reconsider and withdraw rejection.

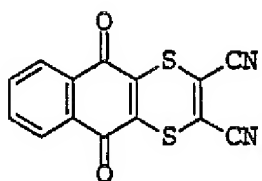
Issues Under 35 U.S.C. 103(a)

The Examiner has rejected claims 1 and 3-8 under 35 U.S.C. §103(a) as being obvious over Sachse et al. (DE 3609645). Applicants respectfully traverse this rejection.

The Present Invention and its Advantages

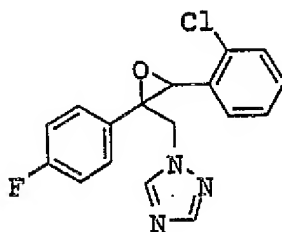
Independent claim 1 of the present invention relates to a fungicidal mixture, comprising:

A) the compound of the formula I



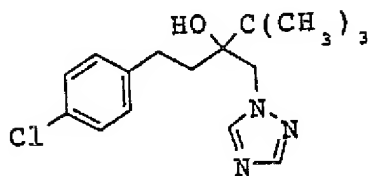
and

B) at least one compound II selected from the compounds II-2 and II-4



II-2

and



II-4

in a synergistically effective amount. A review of the claims reveals that a specific combination of compounds must be present in the inventive fungicidal mixture. Also, such a mixture, in addition to being novel and non-obvious, achieves unexpectedly superior properties. These properties are in fact synergistic since the combined compounds achieve better results than would be additively expected from the individual compounds when employed as a fungicide.

Distinctions Between the Present Invention and the Cited Art

While not conceding to the Examiner's rejection, but merely to expedite prosecution, independent claim 1 has been amended to limit the compound of the formula II to the allowable subject matter, compounds II-2 and II-4 recited in claim 2. The Examiner has acknowledged at page 6 that this subject matter is allowable. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

In view of the above, issuance of a Notice of Allowability is respectfully solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Craig A. McRobbie (Reg. No. 42,874) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/519,214
Amendment dated July 10, 2007
Reply to Office Action dated April 18, 2007

Docket No.: 5000-0110PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: July 10, 2007

Respectfully submitted,

By 

Craig A. McRobbie
Registration No.: 42,874
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorneys for Applicant